

and nays were called by Messrs. Pelot and Cooper, and were—

Yeas—Messrs. Berthelot, Cooper, English, Edwards, Livingston, M'Lean, Pelot and Walker—8.

Nay—Mr. Dupont.

So the bill passed—ordered, that the title be as above.

An act to amend an act to incorporate the town of Jacksonville, was again read, and referred to the committee on the state of the Territory.

The Senate again went into committee of the whole on a bill to be entitled "An act to regulate the militia of the Territory of Florida, and to repeal all former acts in relation to the same," Mr. English in the Chair. After some time, the committee rose, and reported said bill amended, which was concurred in, and said bill read a second time, and made the special order for to-morrow.

The Senate received from the House of Representatives as passed, "An act to establish sundry Ferries;" which was read, and referred to a select committee, viz: Messrs. Pelot, Cooper, and M'Lean.

Also, a resolution concerning Col. W. J. Worth, which was read.

Also, a bill to be entitled "An act to legitimate a certain child therein named," which was read.

Also, a preamble and resolution asking of Congress an appropriation to establish a Light-House on Cape St. Blas, which was read, and referred to the committee on the state of the Territory.

On motion, the Senate adjourned until to-morrow.

THURSDAY, Feb. 3d, 1842.

The Senate met pursuant to adjournment.

The resolutions of Mr. Cooper, in relation to the faith of the Territory, were again read; for which Mr. Brockenbrough offered the following substitute:

WHEREAS the Congress of the United States, acting by authority of the Constitution of the United States, the fourth article of which

gives Congress "power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States," has passed laws from time to time, organizing and constituting the Territorial government of Florida, by virtue of which laws only the people of Florida have hitherto held and enjoyed a political existence and organized government;—and whereas, by such organic laws a Legislative Council has been established, the members of which are *elected by the people of Florida*, with power to pass laws for the government of the Territory, extending to "*all rightful subjects of legislation*," which laws are to be of full force after their passage (and the sanction of the governor, or the passage by a vote of two-thirds without his sanction,) unless annulled by an act of Congress :

And whereas, the people of Florida have expressly and tacitly, collectively and individually acquiesced in and sanctioned such government,—by voting for its officers—by resorting to its tribunals—by relying upon its guarantees for the protection of life and property—by general obedience to its mandates and the punishment of those who violate its laws—and, lastly, by living and acting under its authority, without rebellion, revolution, or the establishment of any other form of government :

And whereas, the said Legislative Council, at the instance principally, of the people of *Middle Florida*, did in the year 1833 pass an act entitled "An Act to incorporate the subscribers to the Union Bank of Florida," by which act the Governor was required to sign, seal and deliver to the said Union Bank of Florida, (when certain bonds and mortgages were executed,) the bonds of the Territory, first for one million, and subsequently for two more millions of dollars, for the purpose of being sold to raise the capital stock of that bank, which act was permitted to pass and became a law, and was duly published and carried into full effect without remonstrance from the people of Florida or application to Congress to annul the same under its reserved power, and which act has since been re-sanctioned by amendments passed in 1835, in 1836 and in 1839,—by receiving and publishing the annual statements of said Bank, as required by said act—by appointing committees to examine the affairs of said Bank under the authority of said act—by the annual appointment of government directors, appointed by virtue of said act—and by permitting said Bank to continue to exercise its corporate functions and sue and be sued, as a body corporate, in conformity of said act :

And whereas the said Legislative Council did, in the year 1835, pass an act entitled "An act to increase the capital of the Bank of Pensacola, and to amend the laws incorporating said Bank, and for other purposes," principally at the solicitation of the *people and representatives of West Florida*, by which said act the said Bank of Pensacola was authorized to subscribe for certain Railroad stock, and to enable it so to do, to make its bonds for five hundred thousand dollars payable to the Territory of Florida; and upon said

bonds, when satisfied of the subscription for said stock, the Governor was required to endorse an assignment and guarantee in favor of the bearer thereof, under the seal of the Territory, which said act was likewise passed into a law, published, and carried into effect without remonstrance by the people of Florida, or application to Congress to annul the same, and was further sanctioned by an act of amendment in 1838, and by the other modes by which the charter of said Union Bank has been sanctioned:

And whereas the said Legislative Council did, in 1835, principally at the solicitation of *the people and representatives from East Florida*, pass an act entitled "An act to incorporate the Southern Life Insurance and Trust Company," by which said act the said Company was authorized to issue certificates of one thousand dollars, bearing not more than six per cent. interest, redeemable within the range and limit of the charter, at such times as the Governor and Company might agree upon, and present the same to the Governor or acting Governor of this Territory, whose duty it should be to endorse thereon "Endorsed by the Territory of Florida," and sign his name and title of office thereto, and return the same to said company; and the faith of the said Territory was thereby pledged as security for said company, for the faithful payment of such certificates, according to the tenor and effect of the same; the amount of which certificates was only limited by the amount of debts under mortgage to the company at the time of making application, to be secured after the mode and in conformity to the manner pointed out in the sixth section of said act:

And whereas said act was permitted to pass into a law, be published, and acted upon without remonstrance or petition to Congress to annul the same, and was again sanctioned by amendment in 1837 and 1838, and by the other modes mentioned with regard to the Union Bank of Florida; and certain certificates have been endorsed and sold under said acts last mentioned:

And whereas the Legislative Council, in 1838, passed an act entitled "An act to call a convention for the purpose of organizing a State Government," and said Convention, elected under said law, met in conformity thereto, at the place and day appointed, and did frame "a constitution or form of government for the people of Florida," in which it is declared that "the General Assembly (under that Constitution) shall not pledge the faith and credit of the state to raise funds in aid of any corporation, whatever;" and it is further declared, that "the General Assembly shall, at its first session, have power to regulate, restrain and control all associations claiming to exercise corporate privileges in the state, so as to guard, protect and secure the interests of the people of the state, not violating vested rights, or impairing the obligation of contracts;" and thus again sanctioned, in another form, the obligations then existing:

And whereas said convention, assuming, as it well might, though elected for a specific purpose, to speak the sentiments of the people of Florida upon important questions of general interest, expressly

refused to pass various resolutions and propositions introduced, declaring the bonds and guarantees before issued, or that might be issued, null and void, or to repudiate the same,—but, on the contrary, passed a certain preamble and resolution by which the attention of Congress was requested, and its aid invoked, “to the passage of a law to remedy, as far as practicable, the evils that had already resulted from the improvident and injudicious acts of the Territorial Legislature, and to prevent the disastrous consequences which it was apprehended might ensue from the same cause; and (stated) *that whilst that Convention would deprecate any course calculated to impair the obligation of contracts, or to weaken the credit or affect injuriously the character and honor of the people of Florida, they yet respectfully insisted that that Honorable body (Congress) would take such action upon this subject by altering, repealing, or amending the charters that had been granted, or by so modifying the same, as would protect the people from further injury, maintain their rights as a free people, and preserve their just interests and privileges*”—thus again sanctioning, in the name of the people of Florida, the inviolability of the faith pledged, and the obligation of the contracts made:

And whereas the said acts have thus received the sanction of the people of Florida, by their representatives, in every form in which they could act, and the sanction of the Government of Florida existing *de facto*, and the only one which ever has claimed to exist, or yet exists, and the same being also the government *de jure*, existing *of right* by the Constitution—the acts of Congress,—and the acquiescence of the people through all time passed, and an ordinance passed by their Convention in which the authority of the same is acknowledged, and its laws continued in force until repealed or altered by the General Assembly of the State; and inasmuch as nations are held bound for acts of aggression or spoliation committed by any government existing *de facto*, however tyrannical or arbitrary such government may be, or however odious or unjust may be the *usurpation* by which such government exists, or however much opposed the nation may have been to such government, or its acts of aggression and spoliation; and inasmuch as the obligations of a people acting by their own representatives, in a government acquiesced in by them, for the loan of money to be expended among them, however injudiciously, seem to present a much higher moral claim. It appears to the members of the present Legislative Council, that a proper respect for themselves, and a due regard for the character of their constituents—the imperative obligations of common honesty—the inviolable sacredness in which the faith and honor of a free people should be held—the blighting effects of infamy, and the scorn of mankind, upon the hopes and destinies of a young Republic, alike require that however limited may be their present resources they should undertake to declare null, obligations so repeatedly sanctioned; specially when it is considered that those obligations depend only on honor, and cannot be enforced by law, and that the money bor-

rowed has been used and expended among our own people, and to some extent lost or squandered by the faithlessness or incapacity of our own agents,—and when it is remembered that the incapacity of this government to bind the people, was unwhispered in the Council as long as money could be obtained by the pledge,—and it was then held omnipotent to borrow,—and the doctrine that it was powerless to pay, (though still held capable to repudiate in the name of the people) was only heard in indistinct murmurs when the golden stream first ceased to flow, and has only increased to a voice of thunder now since payment is demanded; and that the force and authority of a declaration made by the representatives of the same people, acting under the same organic laws and form of government, to *annul* such obligations, is more than questionable, however potent it may be in shame and mischief; and it may be apprehended that the general opinion of mankind and our sister States might still compel us to bear the burthen of the debt, as well as the humiliation of repudiating it.

And whereas the passage of the Acts in question was a gross abuse of power, in every aspect unwise and unstatesman-like, and in results unfortunate and disastrous, inasmuch as it gave to banks and their stockholders monstrous and dangerous privileges; as it created more bank capital than was, or ever will be, needed in the most prosperous times; as it caused a vast excess of currency to be issued (into few hands and on long credits,) beyond the wants of wholesome trade, which was naturally squandered in wild extravagance, or sunk in visionary speculation; as it violated every principle of sound banking by requiring more money to be loaned on real estate upon long credits, than ever could be done with safety, and continue specie payments; as it enabled a favored few to accumulate vast possessions of unproductive property and hold them up at extravagant prices, thereby retarding the growth of the country, and sending the small planters and the hardy pioneer from our doors to seek cheaper lands elsewhere; and as it produced a system of wasteful extravagance and vicious habits, corrupting the tastes and morals of the people, and utterly at war with steady economy and wholesome industry;

It was the duty of Congress, by its prudent care and protective power, to have saved us from the evil effects of the blind, partial, and improvident acts of our deluded or interested representatives, then acting *in a single House*, and, therefore, more liable to the errors arising from the arts of designing men, or hasty legislation. And although we by no means contend that the failure of Congress to annul those acts ought to shift the burthen from ourselves upon the United States, yet we are of opinion that it gives us an equitable claim to such aid as Congress may reasonably give when called upon by us for aid in the honest discharge of our obligations.

And whereas the said banks have been grossly mismanaged—have violated their charters—have perjured the public faith to be violated, and placed in jeopardy much of the fund and security provided to save us harmless; and have failed to furnish a sound cur-

rency, but on the contrary, by their long suspension of payments and the excessive depreciation of their money, have paralyzed the energies of industry, and poisoned every artery of trade, enhancing the evils arising from other causes, and from those which their former lavish liberality produced and fostered :

And whereas, these evils and the misfortunes incident to the long protracted Indian war, and the vast bodies of land held up by speculators, by reservations and by Spanish grantees, have prevented the immigration of new capital and industry into Florida ; and the general prostration of credit incident to the times has produced distrust and put in motion the crushing engines of the law, pulverizing ideal wealth and grinding the substance from our people, chiefly to pay debts abroad, insomuch that it is difficult to meet by taxation, the trivial expenses of our Territorial government, and utterly impossible to lay new burthens upon a country so prostrated by misfortune, whilst its vitals are torn by war, and it is already bleeding at every pore :

And whereas, the genial nature of our climate and the generous character of our soil, together with the native industry and energy of our people, when deprived of unusual and unnatural resources, give us reason to hope and believe that the sun yet shining above the clouds which lower over us, will again shine on us, when the war terminates and when the crisis in our money affairs shall have passed, and the change and division of property and the influx of population and capital incident thereto shall have followed those events, and when the explosion of credit shall have brought our people back from gewgaw finery and idle speculations, to the substantial comforts produced by industry and economy ; and that then, amidst the blessings of peace and abundance of prosperity, a very light taxation will enable us to pay the interest and gradually sink the principal of all the obligations which they will ever, probably, be called upon to pay, after exhausting the securities of the banks :

And whereas, it is our imperative duty to protect the people of Florida and the honest holders of their obligations from loss, by all lawful means,—and it is hoped and believed that a very large amount of the obligations for which the Territory is liable, is abundantly secured, although now in jeopardy, and unavailable to meet present payments, by the mismanagement of the banks :—

*Be it therefore resolved—First.* That the bonds hitherto issued and the guarantees given to the banks of Florida, are binding upon the people of Florida, in the hands of all lawful holders ; but that, in the present situation of the country, it is impossible for the government of Florida to meet those obligations by taxation or any other means in our power.

*Resolved—Secondly.* That holders of all such obligations are advised to take active measures against said banks and their stockholders when liable ; to obtain security or payment, and that it is the duty of the Legislative Council to render them all possible aid.

*Resolved—Thirdly.* That a Committee be appointed with

structions to report a bill to provide for the protection and preservation of the securities given for the benefit of the Territory and the bondholders, so as best to secure the interests of both from loss by mismanagement or fraud.

*Resolved—Fourthly.* That it will be the duty of the legislative power of Florida, under whatever form of government we may then be, to redeem the obligations of this Territory, which shall remain unpaid or unsecured by the securities and effects of said banks or their stockholders, by taxation or such other means as may be under the control of such legislative power.

*Resolved—Fifthly.* That the Governor be instructed to forward a copy of this Preamble and these Resolutions, as the response of the Legislative Council to the persons demanding payment of interest.

On its adoption, the yeas and nays were called by Messrs. Breckenbrough and Pelot, and were—

Yeas—Mr. President, Messrs. Dupont and Livingston—3.

Nays—Messrs. Berthelot, Cooper, English, Edwards, M'Lean, Pelot, and Walker—7.

So the substitute was lost.

Mr. Dupont then offered the following substitute :

WHEREAS the Legislative Council of the Territory of Florida did at its session in the year one thousand eight hundred and thirty-three, pass an act entitled "An act to incorporate the subscribers to the Union Bank of Florida ;" by virtue of the provisions of which said act, the Executive of the Territory was required to, and did execute and issue certain Bonds of the Territory ; for the ultimate redemption whereof, when the same should become due and payable, the faith of the Territory was solemnly pledged :

And whereas the said Legislative Council did, at a subsequent session, to wit, in the year one thousand eight hundred and thirty-five, pass an act entitled "An act to incorporate the Southern Life Insurance and Trust Company," by the provisions of which said act, the Executive of the Territory was required to execute certain guarantees, pledging the faith of the Territory for the ultimate redemption of the certificates of deposit, to be issued by the said company, and payable at a future period :

And whereas the time of payment specified in the said bonds and certificates is yet future, and no demand for the payment or recognition thereof, or intimation of a demand, has as yet been made upon the constituted authorities of the country :—Therefore,

*Be it Resolved, by the Senate and House of Representatives, That any action of this present Legislative Council, either confirming or repudiating the said bonds and guarantees, would be not only prem-*

ature, but unwise, undignified, and unnecessary, and calculated to subserve no useful object.

And whereas, also, the Legislative Council did, at its said session of 1835, pass an act entitled "An act to increase the capital of the Bank of Pensacola, &c.," by the provisions of which said act, the Executive of the Territory was required to execute certain guarantees, pledging the faith of the Territory of Florida, for the ultimate redemption of certain bonds, to be issued by the said Bank of Pensacola:

And whereas certain persons alleging themselves to be the holders of, and interested in the said bonds, have notified the Executive of the failure of the said Bank of Pensacola to meet the interest now due upon the said obligations; and have demanded of him, as the organ of the people of Florida, the payment of the same:—  
Therefore,

*Be it further Resolved*, That until the holders of the said obligations shall have pursued the stockholders of the said Bank to insolvency, they are not, either in law, equity, or good conscience, entitled to make any demands upon the people of this Territory for the payment thereof.

*Be it further Resolved*, That while this Legislative Council (with a view to the tranquillity of the public mind) would forbear to anticipate contingencies, which may never arise, they are free to express the solemn conviction that their constituents can never be brought by any concurrence of circumstances to sanction the doctrine of "REPUDIATION."

On its adoption, the yeas and nays were called by Messrs. Dupont and Pelot, and were—

Yeas—Mr. President, Messrs. Dupont, Edwards, Livingston, and M'Lean—5.

Nays—Messrs. Berthelot, Cooper, English, Pelot, and Walker—5.

So the substitute was lost.

On the question of adopting the original resolutions, the yeas and nays were called by Messrs. Dupont and English on each one separately, and were on the first—

Yeas—Messrs. Berthelot, Cooper, English, M'Lean, Pelot, and Walker—6.

Nays—Mr. President, Messrs. Dupont, Edwards, and Livingston—4.

So the first was adopted.

On the passage of the second, the yeas and nays were called by the same, and were—

Yeas—Messrs. Berthelot, Cooper, English, Pelot, and Walker—5.



Nays—Mr. President, Messrs. Dupont, Edwards, Livingston, and M'Lean—5.

So the second was lost.

On the passage of the third, the yeas and nays were called, and were—

Yeas—Messrs. Cooper, English, M'Lean, and Pelot—4.

Nays—Mr. President, Messrs. Berthelot, Dupont, Edwards, Livingston, and Walker—6.

So the third was lost.

On the passage of the fourth, the yeas and nays were called, and were—

Yeas—Unanimous—10.

The Senate received from the House of Representatives a message stating that the House had agreed to accept the amendment of the Senate to a bill entitled "An act to alter the name of Mosquito County."

Also, as adopted, a preamble and resolution asking of Congress an appropriation for constructing a road from Marianna to Iola—which was read.

Also, as adopted, a resolution respecting a Law Library for the Court of Appeals—which was read.

An act to organize and regulate the militia of the Territory of Florida, and to repeal all former acts in relation to the same," was read a third time.

On the motion to recommit said bill to committee of the whole, the yeas and nays were called by Messrs. English and Polot, and were—

Yeas—Messrs. Berthelot, Dupont, Edwards, Livingston, M'Lean, and Walker—6.

Nays—Messrs. Cooper, English, and Pelot—3.

So the Senate again went into committee of the whole on said bill, Mr. English in the Chair. After some time, the committee rose and reported progress, and asked leave to sit again, which was granted.

A preamble and resolution requesting of Congress an appropriation to build a Jail at Key West, was read a second time.

A bill to be entitled "An act amendatory of the several acts relative to executors and administrators,"

was read a second time, copies ordered, and referred to the Judiciary committee.

A bill entitled "An act to legitimate a certain child therein named," was read a second time, and referred to the Judiciary committee.

A resolution concerning Colonel W. J. Worth, was read a second time.

On motion, the Senate adjourned until to-morrow.

FRIDAY, February 4th, 1842.

The Senate met pursuant to adjournment.

An act concerning Roads, Highways, and Ferries, was read a third time, and passed—ordered, that the title be as above.

A resolution asking an appropriation of Congress to open and construct a road from Marianna to Iola, was again read.

A resolution respecting a Law Library for the Court of Appeals, was again read.

The Senate again went into committee of the whole on a bill to organize and regulate the militia, &c.; Mr. English in the Chair. After some time, the committee rose, and reported the bill amended, which was concurred in.

On the indefinite postponement of said bill, the yeas and nays were called by Messrs. Pelot and Cooper, and were—

Yeas—Messrs. Cooper and Pelot—2.

Nays—Messrs. Berthelot, Dupont, Edwards, Livingston, M'Lean and Walker—6.

So the motion was lost, said bill was read a second time, and ordered engrossed for to-morrow.

A preamble and resolution asking an appropriation of Congress to build a Jail at Key West, was read a third time, and adopted.

A preamble and resolution respecting Col. Worth, was read a third time, and laid on the table.

Mr. Dupont, from the Judiciary Committee, report-